

**REMARKS**

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application, in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

As set forth in the Office Action Summary, Claims 1-3, 5-7 and 10-25 are currently pending. Claims 7, 16, 17, and 19-23 stand withdrawn.

Claims 1 and 5 have been amended. Support for amendment in Claim 1 to recite, "wherein at least one ligand moiety" can be found in Claim 1 as originally filed. Support for amendment in Claim 5 to recite "wherein the differentially or overexpressed cellular protein comprises the receptor for interleukin 2 (IL-2), GRP (Gastrin Release Peptide), TNF (Tumor Necrosis Factor) receptor, epidermal growth factor receptors, Fas receptor, CD40 receptor, CD30 receptor, CD27 receptor, OX-40,  $\forall$ v integrins, or receptors for certain angiogenic growth factors" can be found at page 10, lines 28-32 through page 11, lines 1-3. Thus, no prohibited new matter is presented herein.

**Rejections under 35 U.S.C. § 112, second paragraph**

Claims 1-3, 5, 6, 10-15, 18, 24 and 25 stand rejected under 35 U.S.C. § 112, second paragraph, as the phrase "wherein said ligand moiety is a polypeptide" in Claim 1 purportedly lacks antecedent basis.

Applicants have amended the phrase "wherein said ligand moiety is a polypeptide" in Claim 1 to recite "wherein said at least one ligand moiety is a polypeptide." Applicants note that the Examiner has indicated on page 2 of the Official Office Action that such an amendment to Claim 1 would overcome this rejection.

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph, as the phrase "a cellular protein differentially or overexpressed" on tumor cells is purportedly indefinite.

In the interest of expediting prosecution and without acquiescing in the rejection, Applicants have amended the phrase "a cellular protein differentially or overexpressed" in Claim 5 to recite "wherein the differentially or overexpressed cellular protein comprises the receptor for interleukin 2 (IL-2), GRP (Gastrin Release

Peptide), TNF (Tumor Necrosis Factor) receptor, epidermal growth factor receptors, Fas receptor, CD40 receptor, CD30 receptor, CD27 receptor, OX-40,  $\alpha\beta$  integrins, or receptors for certain angiogenic growth factors." Basis for the amendment can be found at page 10, lines 28-32 through page 11, lines 1-3.

Applicants request the rejection of Claim 5 under 35 U.S.C. § 112, second paragraph, be withdrawn.

**Rejections under 35 U.S.C. § 112, first paragraph**

Claim 5 stands rejected under U.S.C. § 112, first paragraph, as purportedly failing to comply with the enablement requirement. As set forth in the Official Action Summary, although the specification enables targeting poxviral particles using cellular antigens that are overexpressed on tumor cells, it purportedly fails to enable targeting poxviral particles using cellular antigens that are "differentially expressed" on tumor cells. The rejection is respectfully traversed.

In the interest of expediting prosecution and without acquiescing in the rejection, Applicants have amended the phrase "a cellular protein differentially or overexpressed" in Claim 5 to recite "wherein the differentially or overexpressed cellular protein comprises the receptor for interleukin 2 (IL-2), GRP (Gastrin Release Peptide), TNF (Tumor Necrosis Factor) receptor, epidermal growth factor receptors, Fas receptor, CD40 receptor, CD30 receptor, CD27 receptor, OX-40,  $\alpha\beta$  integrins, or receptors for certain angiogenic growth factors." Basis for the amendment can be found at page 10, lines 28-32 through page 11, lines 1-3.

Applicants submit amended Claim 5 is enabled by the specification, as Applicants have amended Claim 5 to further identify the receptors which may be comprised by the differentially or overexpressed cellular protein. As such, the skilled artisan would be enabled, without undue experimentation, to target poxviral particles using cellular antigens that are "differentially expressed" on tumor cells.

In light of the above amendment, Applicants request the rejection of Claim 5 under 35 U.S.C. § 112, first paragraph, be withdrawn.

**Rejections under 35 U.S.C. § 102**

Claims 1, 2, 10-12, 18, and 25 stand rejected under 35 U.S.C. § 102(a) as purportedly anticipated by *Collado et al.* (*Vaccine* (July 2000) 18, 3123-3133) ("Collado"). The rejection is respectfully traversed.

According to 35 U.S.C § 102(a), a person shall be entitled to a patent unless the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

The present application claims priority under 35 U.S.C. § 119 to EP 00440109.7 filed in Europe on April 14, 2000. The Examiner has cited Collado, with a publication date of July 2000, under 35 U.S.C § 102(a) as anticipating the present application, however, Collado's date of publication is after the present application's effective filing date of April 14, 2000.

On July 3, 2001, Applicant filed a Claim for Convention Priority to European Patent Application No. 00440109.7 filed April 14, 2000 and to European Patent Application No. 01440009.7 filed January 22, 2001. Should the Examiner find necessary, Applicants are willing to submit any additional documents to perfect the date of priority.

In light of the above, Applicants respectfully submit that the rejection of the claims under 35 U.S.C. § 102(a) be withdrawn.

**CONCLUSION**

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this Reply and Amendment or the application in general, it would be appreciated if the Examiner would contact the undersigned attorney by telephone at (703) 838-6684 so that prosecution of the application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL PC

(INCLUDING ATTORNEYS FROM BURNS DOANE SWECKER & MATHIS)

Date: November 18, 2005

By: Kim E. Choate  
Kim E. Choate  
Registration No. 57,102

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620